

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/743,616

Applicant: Jeff S. Eder

Filed: March 16, 2002

Examiner: Jennifer Liversedge

Art Unit: 3692

Docket No.: AR - 61

Customer No: 53787

DECLARATION UNDER RULE 132

I, Dr. Peter Brous, do hereby declare and say:

My home address is 17221 NE 8th Street, Bellevue, WA 98008. I have a B.S. degree in Finance from the University of Connecticut and a PhD in Finance from the University of Oregon.

I have worked in the finance field for 26 years, concentrating in the areas of corporate performance measures, business valuation, capital budgeting, and real option analysis. I have been a professor of finance at Albers School of Business and Economics at Seattle University for 16 years and was recently honored to hold the Dr. Khalil Dibee Endowed Chair.

I further declare that I do not have any direct affiliation with the application owner, Asset Reliance, Inc or its licensee Kantrak, Inc. I previously met the inventor, the President of Kantrak, Inc. briefly on October 16, 2007.

On October 25, 2007, I was given a copy of U.S. Patent Application 10/743,616 entitled "A performance management platform" filed in the United States Patent Office on March 16, 2002. Until that time I had not read the patent application. I have studied the entire specification in order to closely analyze the claims and drawings. I am familiar with the language of the claims and conversant with the scope thereof. I understand the invention as claimed.

On September 29, 2008 I was given a copy of "the 1986-1988 Stock Market Investor Sentiment or Fundamentals", by Michael N. Baur, Socorro Quintero and Eric Stevens published in Managerial and Decision Economics, Vol. 17, No. 3 (May - Jun., 1996). Until that time I had not read the article or discussed it with anyone. However, I have read many articles on the subject of market value and market sentiment. I have a strong understanding of the concepts of market value and market sentiment and have been teaching these concepts for over 10 years. I have studied the entire article and I am totally familiar with the language of the article with the scope thereof.

Based on my experience and education in the field of finance, I have concluded that the article by Baur et al. (hereinafter, the Baur article) has no relevance to the market sentiment calculation and analysis described in patent application 10/743,616. There are several reasons for this.

1. Patent application 10/743,616 describes a method for calculating and analyzing market sentiment for a single firm. The Baur article describes an attempt to determine if investor sentiment related to the market as a whole had an effect on changes in prices for the S&P 500 as a whole during the period from 1986-1988;
2. Patent application 10/743,616 defines market sentiment for a single firm as the difference between the market value of firm's equity and debt and the value of the firm's current operation, real options, excess financial assets and derivatives. The Baur article does not analyze the difference the market value of S&P 500's equity and debt

and the value of the S&P 500's current operation, real options, excess financial assets and derivatives as it only attempts to analyze changes in prices;

3. Patent application 10/743,616 teaches the analysis of the market sentiment level calculated for a firm using the method described in item 2 in order to identify the elements of value and/or external factors that contribute to the calculated levels. The Baur article does not teach or suggest anything about identifying the elements of value and/or external factors that contribute to market sentiment or investor sentiment;

4. Patent application 10/743,616 describes a method for calculating and analyzing market sentiment for a single firm at a specific point in time. The Baur article describes an attempt to determine if changes in investor sentiment related to the market as a whole affects weekly changes in prices for the S&P 500 as a whole over a period of several years;

5. The Baur article cannot be used to make any inferences about investor sentiment (or market sentiment) at the firm level because increases in investor sentiment for some firms in the S&P 500 could offset decreases in investor sentiment for other firms within the S&P 500 over the time period being analyzed;

6. Patent application 10/743,616 does not teach or suggest anything about identifying a proxy for market sentiment for the market as a whole. The Baur article relies on an assumption that a measure of the change in the discount percentage on closed end funds is a proxy for investor sentiment related to the market as a whole. The Baur article also acknowledges that changes in closed end fund discounts may not be the correct proxy for measuring general investor sentiment;

7. The only conclusion that can reasonably be drawn from the Baur article is that the assumed proxy for general investor sentiment (described in item 6) did not have a significant statistical relationship to the observed price changes for the S&P 500 between 1986 and 1988.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Peter Brous

A handwritten signature in black ink, appearing to read 'Peter Brous', written in a cursive style.

Date: October 14, 2008